

MINUTES OF THE BOARD OF APPEALS MEETING
Board of Appeals
09-16-09

The meeting of the Slinger Board of Appeals was called to order by Chairman Wolf at 300 Slinger Road, Slinger, Wisconsin on Wednesday, September 16, 2009 at 6:00 p.m.

I. Roll Call & Notice of Meeting:	<u>Present</u>	<u>Absent</u>
Candi Martin		x, excused
Mike Patenaude	x	
Dawn Smith	x	
Larry Toraason	x	
Craig Wolf	x	
Rick Kohl (Alternate)	x	
Erin Rauh (Alternate)		x, excused
	<u>5</u>	<u>2</u>

Also Present: Terry Frederickson, Village Building Inspector/Zoning Administrator
Margaret Wilber, Deputy Administrator/Deputy Clerk

Deputy Clerk Wilber took the roll call and stated that all posting and publication requirements had been met. Deputy Clerk Wilber administered the Oath of Witness to all who wished to speak before the Board at this time. Sworn in were Zoning Administrator Terry Frederickson 300 Slinger Road, Curt Stuetgen 303 Elm Avenue, Roy Trotter 305 Elm Avenue, John Dukelow 307 Elm Avenue, and Ken Zwirlein 300 Park Avenue.

II. Public Hearing

A. Petition for Appeal

Chairman Toraason opened the public hearing at 5:31 p.m. and announced that Curt Stuetgen of 303 Elm Avenue has petitioned for a variance from the side yard aggregate width and side yard minimum width requirements of the R-6 Zoning District. The Petitioner seeks to construct a one-car 350 Sq. Ft. garage attached to the northerly side of his home in a manner that would result in a total aggregate width for both side yards of 8.2 feet which is 9.8 feet less than the required aggregate width of 18 feet. Also the resulting northerly side yard width of 0.8 feet (9.6 inches) would be 5.2 feet less than the required minimum 6-foot width for any single side yard. Chairman Toraason asked Mr. Stuetgen to present his case before the Board.

B. Petitioner's Case

Curt Stuetgen, 303 Elm Avenue, appeared before the Board and stated that his residence does not presently have a garage. He stated that adding a garage would increase the value of his property and give his family greater personal use. Mr. Stuetgen stated the garage would allow them to park vehicles out of the weather and would give them more storage area. Mr. Stuetgen stated he has a young family and a garage would be very useful to them for many reasons. He stated he understood that the building would be very close to the lot line, however he planned to construct it so it would need very little maintenance and he would work with his neighbor so he would affect the neighboring property as little as possible.

C. Zoning Administrator's Case

Zoning Administrator Frederickson informed the Board that Mr. Stuetngen's original permit request had been denied based on the building's impact on the side yard setback of the property. He stated that having a structure placed within 9 inches of the lot line may cause problems during construction and with long term maintenance. He stated he had no problem with the proposed building aesthetically and he agreed that there was a hardship since no accessory storage buildings were on the lot now, but his concern was with the proximity of the structure to the neighboring parcel. Zoning Administrator Frederickson stated the residence is already an existing non-conforming structure due to the small size of the lot and adding a garage to the building would compound that problem.

D. Public Comment Period

Chairman opened the hearing to public comment at 5:35 p.m.

Roy Trotter, 305 Elm Avenue, stated that he lives in the property next to Mr. Stuetngen and would be the most affected by this building. He informed the Board that he had no problem with the garage being located where it was proposed and he was in favor of Mr. Stuetngen being allowed to build the garage as planned.

John Dukelow, 307 Elm Avenue, stated he had no objection to the garage as proposed, however he did have a concern about any fire safety issues that may arise from having buildings located so close to each other.

Ken Zwirlein, 300 Park Avenue, stated he was also concerned about the building's effect on fire safety in the area. He stated the houses in the neighborhood are already fairly close.

E. Closing Statements

Chairman Toraason asked Mr. Stuetngen and Zoning Administrator Frederickson to present their closing statements.

Mr. Stuetngen stated that not having a garage is a hardship that he would like to fix with this building. He stated the fire safety issue could be partially resolved through the building materials used and he would use the most fire-resistant materials available.

Zoning Administrator Frederickson stated again that he had no problem with the aesthetics of the proposed building, but ideally a space of 20' should be left between buildings.

III. Deliberation of Petition:

- A. Discussion on required variance from the 18 foot minimum aggregate side yard width and the less than minimum 6 foot width requirement for any single side yard

Chairman Toraason asked the Board to discuss any questions or comments they had on this petition. Board Member Patenaude asked how access to the backyard would be made if the garage is constructed as proposed. Mr. Stuetgen stated the east side of the building would still have adequate access to the back yard area. He stated he also planned to have double doors installed on the back side of the garage to allow vehicles to drive through the garage to the back yard if needed for yard work or maintenance in the future.

Board Member Kohl asked what proportion of the neighborhood was non-conforming such as this lot. Zoning Administrator Frederickson stated he would estimate approximately 50% of the subdivision was non-conforming and was mostly built 30 to 40 years ago.

Board Member Smith asked how long Mr. Stuetgen has lived at this location, to which Mr. Stuetgen stated he has lived there 4 years. He stated the reason he was asking for a variance at this time after living there for a few years was because he had now managed to save up the money needed to complete construction. Board Member Smith asked if the garage could perhaps be built behind the house to keep it out of the setback area. Mr. Stuetgen stated that might be possible, but it would take up a very large portion of his backyard due to the small size of the lot and he did not wish to lose that much backyard.

Board Member Smith stated that having the garage so close to the neighboring property would mean that routine maintenance would have to be done partially on the neighbor's land. Mr. Stuetgen stated the garage would have aluminum siding that would need very little maintenance. Mr. Trotter stated he had no intention of moving away from his property and had no problem with Mr. Stuetgen coming onto his property as needed.

Board Member Kohl asked about utility easements in the area and if the building would encroach on any of them. Mr. Stuetgen stated that Diggers Hotline had marked up the property recently for a different matter and they had identified the utility lines on the property. He stated the gas line runs along the east side of the building and the electric line runs along the driveway but comes into the house at a point located in front of the proposed garage site.

B. Findings of Fact

Chairman Toraason asked Deputy Clerk Wilber to review the findings of fact that are used to make any determination on variance requests. Deputy Clerk Wilber read the findings of fact as listed in Village of Slinger Zoning Code Section 12.07. She explained that five findings need to be deliberated: Preservation of Intent, Exceptional Circumstances, Economic Hardship and not Self-Imposed Hardship, Preservation of Property Rights and Absence of Detriment.

Board members discussed the various findings and stated that placing a structure so close to a neighboring lot line would impact the neighboring property owner. They stated that even though the present neighbor had no problem with this, the building would remain and may present problems for future neighbors. They also stated that the fire safety issue brought up earlier

C. Additional Conditions (if necessary) – None

D. Action to Approve, Modify, or Deny the Requested Variance

Chairman Toraason moved to deny the requested variance based on the findings that the variance would not be consistent with the purpose of regulations in the area, there were no extraordinary circumstances in this situation that did not apply to other properties in the area, and the variance would create a substantial detriment to adjacent property. Board Member Smith seconded the motion and a vote was taken with the following results: Yea's: Toraason, Kohl, Patenaude, Smith, Wolf; Nay's: None. The motion was passed and the variance was denied.

E. Notice of Appeal Rights

Deputy Clerk Wilber informed Mr. Stuetgen of his rights to appeal this decision and stated he would receive a letter with detailed information on the appeal process within the next few days.

IV. Adjourn Meeting

Motion Wolf/Smith to adjourn at 5:50 p.m.; carried.

Margaret Wilber, Deputy Administrator/Deputy Clerk